



EVOLVING AND THRIVING DURING A PANDEMIC



AGENDA:

SPEAKERS

Patrick Brown, Lawyers Mutual Insurance, Cary
Tom Lenfestey, The Law Practice Exchange, Cary
Laura Mahr, Conscious Legal Minds, Asheville
Warren Savage, Lawyers Mutual Insurance, Cary
Camille Stell, Lawyers Mutual Consulting & Services, Cary

8:45-9:00 a.m. | Registration

9:00-10:00 a.m. | Understanding Cyber Risk – Tricks, Traps and Trends (1 hour Technology)4

Today's world is increasingly connected to the internet and we have become accustomed to always being connected. Recent events have also accelerated our reliance on additional technologies for communication and productivity. However, such advancements also come with increased risks as malicious actors seek to exploit those platforms for their personal gain. It can quickly become overwhelming to determine where to begin to address privacy and security. In this program we will show that everyone is a target no matter how big or small we are, review some of the more common risks and real-world examples of attacks, and wrap up with a few quick and easy thoughts on how to start protecting yourself and your clients without spending a lot of money.

10:00-11:00 a.m. | A Roadmap for Succession Planning (1 hour general).....24

The statistics are alarming:

- 400,000 lawyers in the United States are 62 and older
- 30 – 40% of actively practicing lawyers are at the age and stage where they are beginning to retire or to contemplate retirement
- 63% of law firm partners, aged 60 or older, control at least ¼ of their firm revenue
- Most law firms do not have succession plans in place.

Key takeaways:

- the challenges to succession planning
- is selling your law firm right for you?
- how to transition ownership to a Next Generation law firm owner



11:00-Noon | Managing Your Firm’s Financial Health During Uncertain Times: A Primer on Fees, Billing and Collections (1 hour general)35

As challenges related to COVID-19 continue to emerge, we need to better understand the financial issues our law firms face in order to overcome them. Join us for a discussion on three primary areas of firm finances: setting fees, billing, and collections.

Noon-12:30 p.m. | Lunch provided

12:30-1:30pm | Managing Client Relationships from 6 Feet (1 hour general)58

Stay-at-home orders and self-quarantine are impacting our ability to travel freely, but those restrictions don’t mean our connections with clients must suffer. Having a vibrant network is essential to keeping your law practice healthy. Join Camille Stell of Lawyers Mutual Consulting for a conversation about how to communicate with your clients during a pandemic, as well as how to network remotely in order to continue building relationships among your pipeline of clients, potential clients and referral sources.

1:30-2:30 p.m. | Emerging Ethics (1 hour Ethics)72

Technology and digital communications continue to push the limits of the Rules of Professional Conduct. Regulatory Reform is being discussed across the country. Next Generation clients are demanding Next Generation law firms. Can we apply the rules designed for old school law practice to the modern law office that is needed for today? Join Camille Stell and Warren Savage for a discussion around the collision of forces arising from regulatory reform, 21st century clients, multi-generational law offices, and a changing legal marketplace.

2:30-3:30 p.m. | Mindfulness for Lawyers: Building Resilience to Stress Using Mindfulness, Meditation, and Neuroscience (1 hour Mental Health).....84

Learn how to become a more resilient lawyer using mindfulness, mindfulness meditation, and cutting-edge neuroscience techniques. We will discuss the connections between mindfulness and the practice of law, and provide tips about how to use mindfulness during your workday to raise your productivity and lower your stress. Learn how human brains – and lawyers’ brains in particular – are wired, and how your wiring impacts the way you practice law and experience your life. At the end of the CLE, you will have 3 new tools you can immediately put to work to build resilience in your workday.



UNDERSTANDING CYBER RISK: TRICKS, TRAPS, & TRENDS

BY PATRICK BROWN

UNDERSTANDING CYBER RISK: TRICKS, TRAPS, & TRENDS



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VP - ENTERPRISE & OPERATIONAL RISK MANAGEMENT



A FEW WORDS...

No security is all-inclusive. A dedicated actor intent on breaching physical or electronic systems will succeed given time and resources. Rather the goals could be stated as to identify, reduce, transfer, and accept various risks.

The purpose of this presentation is to assist in beginning the discussion around privacy and information security. It does not address every potential threat or concern. It is not legal advice. It is not to establish a standard of care.

The threat landscape is ever-changing. So must be any solutions and procedures. What is reasonable today may change tomorrow.

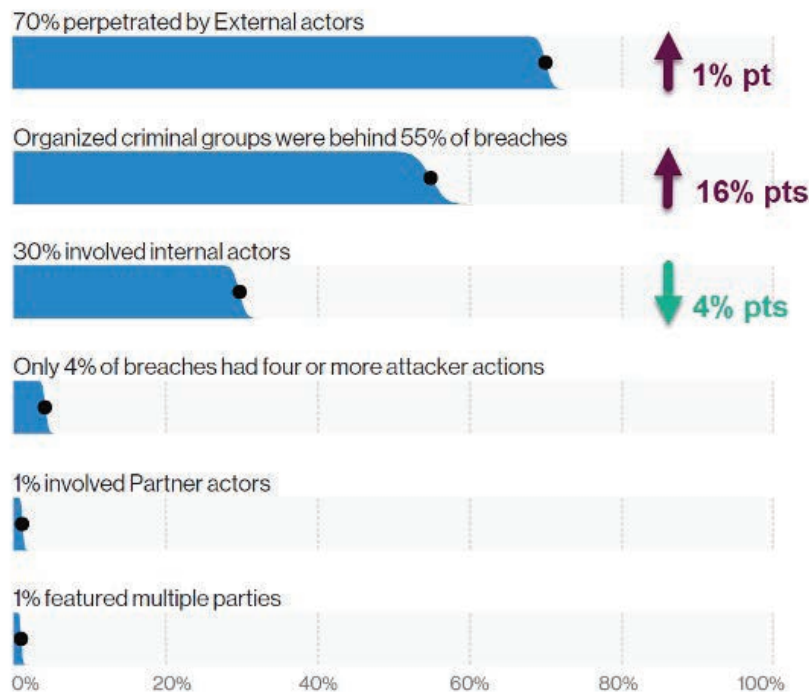


WHY ME?





THE “WHO” AND THE “WHAT” – VERIZON 2020



THE \$60,000 QUESTION (x 100,000,000)

- World-wide cybercrime costs were \$3T in 2015
- Predicted to exceed \$6T by 2021
- More profitable than the global trade of illegal drugs
- Small businesses are attractive targets

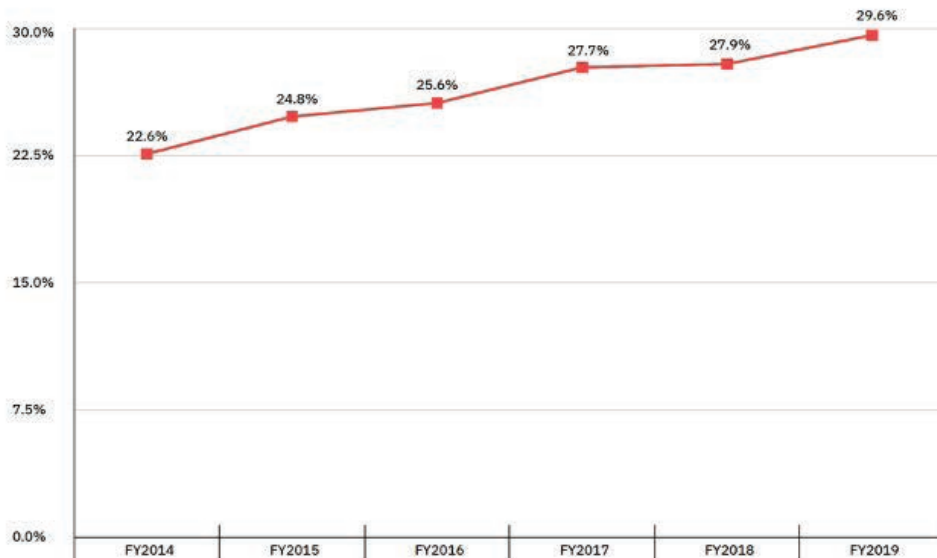


PROBABILITY OF A DATA BREACH

Figure 25:

Probability of a data breach in the next two years

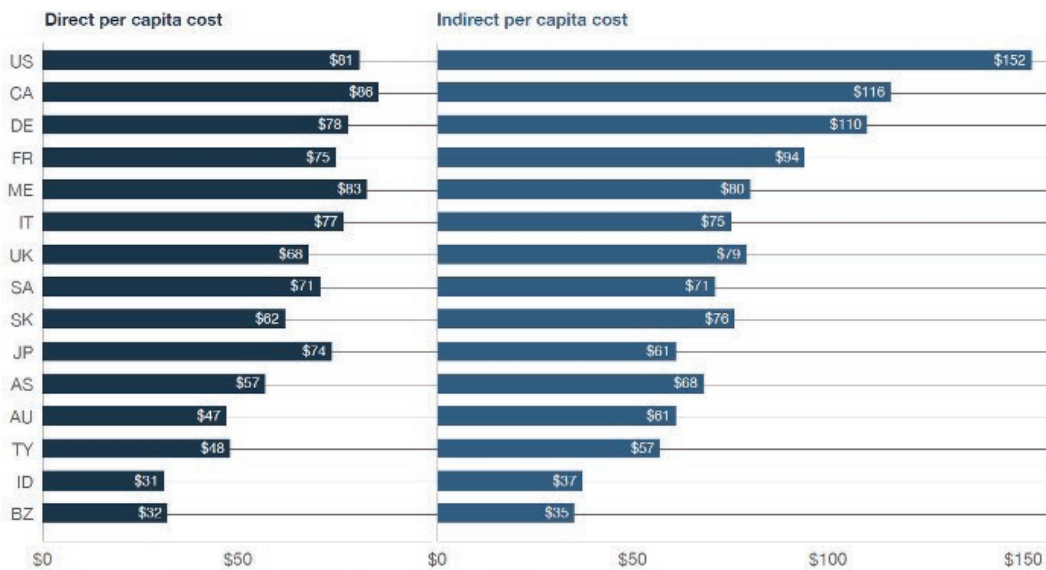
Minimum of 10,000 records



Ponemon Institute 2019 Cost of a Data Breach Study



COST OF A DATA BREACH



Ponemon Institute 2018 Cost of a Data Breach Study





CASE STUDY – WASHINGTON STATE UNIV.

- \$5.26M class action settlement
- Research project records on a hard drive
 - Stored in a locked safe in a storage unit
 - Unit broken into and safe stolen (2017)
- No showing of:
 - Compromise
 - Harm
 - That the thieves were even aware of the data!

The Spokesman-Review, 2019

Sheth v. Washington State Univ., WDAW, 3:17-cv-05511 (2017)



CASE STUDY – JOHNSON & BELL

- Chicago area law firm
- Class action lawsuit in 2016
- Alleges cybersecurity negligence
 - Used a remote login application based on a 2005 version of JBoss (EOL 2007)
 - Known exploit identified by NIST that can be used for ransomware attacks (2013)
 - VPN used by the firm was vulnerable
 - VPN client would drop connectivity and create a vulnerability at such time
 - Firm's email system used SSL version 2.0
 - Replaced by v3.0 in 1995, which was replaced by TLS: v1.0 1999, v1.1 2006, v1.2 2008, v1.3 2018
- Exhibit 1: Article by J&B attorney: "Don't Let Cybersecurity Breaches Lead to Legal Malpractice: The Fax is Back"
- Class certification was denied, all claims must be arbitrated individually

Shore v. Johnson & Bell Ltd– N.D. IL – filed 2016





PHISHING FOR CREDENTIALS

- Beware of any link that asks you to log in
 - Does it make sense?
 - Is it the correct login service?
 - Does the login screen look right?
- Type it yourself
 - Malicious links are getting harder to detect
- Call and verify
 - Contact information independently verified
- Examples: payroll/benefits, file shares, documents for signature, banking, etc.





CASE STUDY – SPOT THE RED FLAGS!



Urgent Task

DM Daniel M. Zureich 7:39 AM
To You ...

Hi [REDACTED]
Let me know when you are available,
there is something I need you to do for
some clients. I'm heading out for a
meeting right now, so just respond
back to this email for more details.

Regards,
Daniel M. Zureich

Sent from my iPad



Urgent!!!!

DZ Daniel Zureich
en.rentals@aol.com ...

To You patrick@lawyersmutualinc.com
Saturday, December 22, 1:23 PM

Are you free today? let me know...

Kind regards,
Daniel



CALENDAR INJECTION = NEW PHISHING

- Most calendars automatically add invites
- Also possible to add without getting notice
- Appointment contains a conference link
 - This is the phishing part!
- Clicking the link “acts” like a legitimate meeting app would act
- Now the “bad guys” have access to your computer

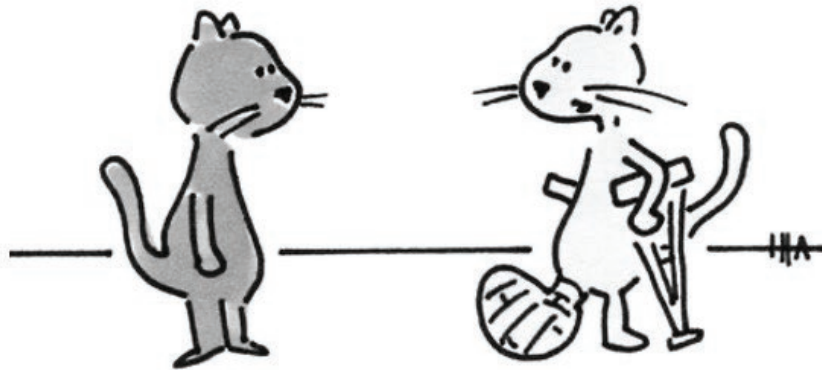




DELETE & REPORT – DON'T INVESTIGATE

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WWW.ANDERTOONS.COM



"It's a good thing I was only mildly curious!"



VISHING



<https://www.youtube.com/watch?v=dm2welCgrAE>

November 24, 2017 – NBC News



CASE STUDY – RANSOMWARE

Mecklenburg County (December 2017)

Davidson County (Feb 2018)

[Click here](#)

Orange County (March 2019)

NC State Bar (August 2019)

Cherokee Tribal Courts (December 2019)



DRIVE BY ATTACKS





CASE STUDY – RANSOMWARE 2.0

- Maze ransomware
- At least 5 law firms in early 2020
- File are not just encrypted, but the data is stolen
- Data posted online to encourage payment
 - Longer to pay = more data posted
- How would you respond?



CASE STUDY – RANSOMWARE 3.0?

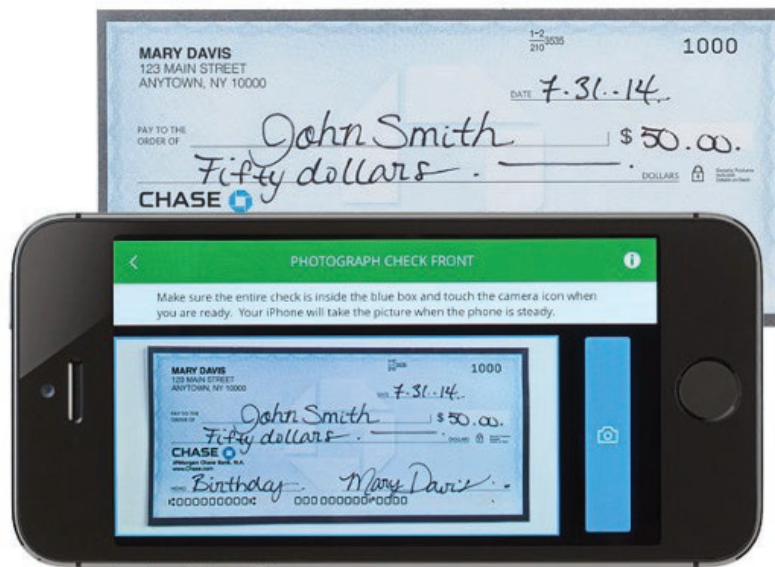
- November 2019 – The Center for Facial Restoration
- Ransomware attack – ~3500 patients
- Patients began receiving ransom demands
 - Threats to release photos and personal details
- Similar attacks on other plastic surgery practices
- Is this the next evolution in ransomware?

<https://healthitsecurity.com/news/hackers-demand-ransom-from-patients-after-breaching-florida-clinic>





ZOMBIE THREAT – DOUBLE PAYMENT



WIRE FRAUD – A WARNING

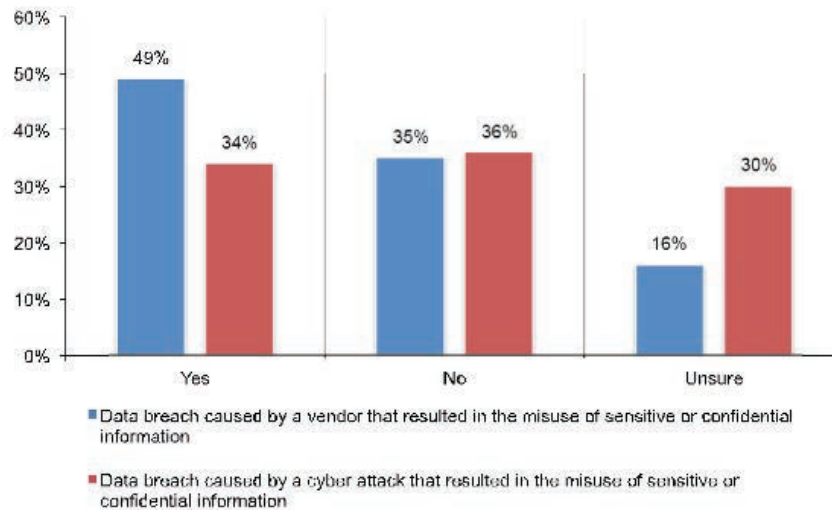
- “After nearly three years of extensive education on this topic, members of the State Bar should now be fully aware of the dangers posed by these email scams.”
- “All attorneys are advised to proceed with caution under any circumstance where funds are to be wired, and to contact the State Bar with any questions in this regard.”

The North Carolina State Bar Journal (Fall 2019 – p. 24).
The North Carolina State Bar Journal (Winter 2019 – p. 20).



DON'T FORGET YOUR VENDORS

Figure 2. Has your organization experienced a data breach or cyber attack?



Ponemon Institute: Data Risk in the Third-Party Ecosystem (April 2016)



14:43

< COVID

Sunday, 22 March :

URGENT: UKGOV has issued a payment of 458 GBP to residents as part of its plan to battle COVID 19. TAP here for more info: [//uk-covid-19.webredirection.com](https://uk-covid-19.webredirection.com)

you need to know

2019 FAQ

COVID-19 cases all around the world!

drive.

Wednesday, February 5, 2020 at 11:46 PM

(the status of our operations in China: if today, the number of confirmed cases has reached over 17,000, real-time data related to confirmed cases. fine as the government continues with containment efforts. An increasingly more than 25 countries have confirmed cases. near New Year holiday, through February 9th. We are among the scheduled resumption date including ways to contact our other 15, were shipped to offices in China. Team chats are now in place if the Coronavirus affecting Pro-QE employees at this time. continue to provide regular updates. We will work with the teams, tons, feedback, etc.

Top 10 Ransomware Attacks Statistics by Experts

Top 10 Ransomware Attacks Statistics by Experts

- MAY 6 In the next month, 49% of businesses expect to experience a data breach or cyber security incident due to a remote workforce - BIARACUDA.COM
- MAY 6 Almost half (46%) of global businesses have faced at least one cyber security threat. - Techrepublic.com
- MAY 3 As of May 2nd, the FBI Reported a 800% increase in reported cyber crimes - entrepreneur.com
- MAR 26 As of March 26, the number of cyber attacks related to coronavirus grew from a few hundred daily to over 5,000 in one day alone. - thenextweb.com
- APR 7 71% of security professionals report increased security threats or attacks since the COVID-19 outbreak. - darkreading.com
- MAY 10 Coronavirus may be the largest-ever global security threat - computerweekly.com
- MAY 14 A 238% increase in cyber attacks against banks is linked to COVID-19 - ZDNET.COM
- APR 29 Only 41% of cyber security professionals said their companies are utilizing best practices to ensure a secure remote workforce - securitymagazine.com
- APR 21 In one month, over 2,000 COVID-related scams were taken down in the UK. - BBC
- AUG 11 Now more than ever, ransomware attacks are more devastating - MonsterCloud.com



THE COVID-19 EFFECT (CTD.)

- Company vs Personal devices
- Security of home network
- Other people on home/remote network
- Monitoring workforce
- More relaxed at home
- Shared devices / spaces
- Who is managing the updates?
- Less likely to ask for help
- Hiring / Onboarding / Training



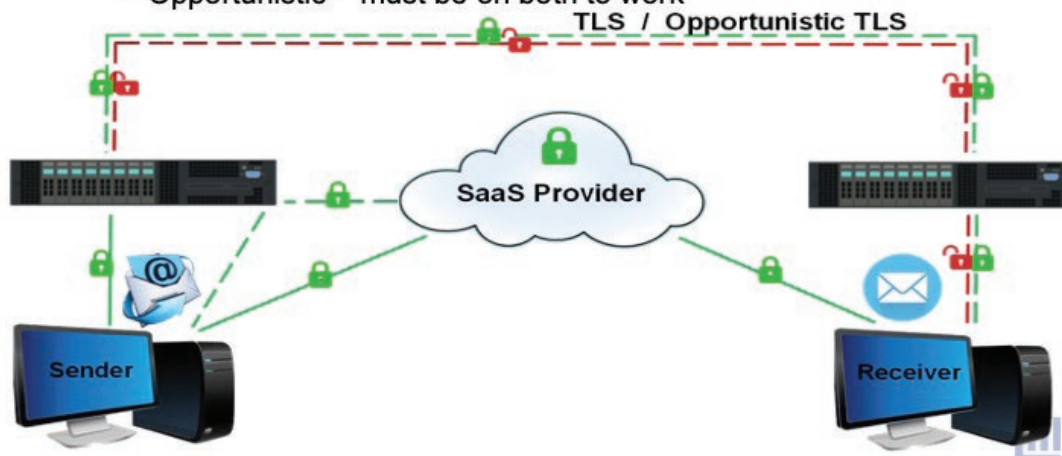
5 - ENCRYPTION OF DATA

- Enable Encryption
 - All Laptops
 - All Mobile Devices
 - All Removable Media
 - All Backups



5A - EMAIL ENCRYPTION

- Protection from being read while in transit
 - Hosted by a secure service with a portal or integrated plugin
- Transport Layer Security (TLS) (v1.3 = current (2018) - do not use v<1.2)
 - Protects between two computers/networks
 - Opportunistic – must be on both to work





3 - POLICIES

- Document major business functions
 - Deposits & Disbursements
 - Office Equipment Disposal
 - Cybersecurity
 - Incident Response
 - Business Continuity
- Test Annually!



4 – KEEP IT CURRENT

- Update & Patch regularly
 - Don't find yourself like Equifax!!
- Budget for lifecycle replacement
- Do not use past End of Life
 - Mobile phones
 - iOS/Windows/Linux versions
 - Servers
 - Routers
 - Printers
 - Etc.





2 - PASSWORD SECURITY

- Passwords

- Minimum 12 characters (16+ is better)
 - No whole words
 - Alphabet soup
 - @, \$, 3, ! are no better than a, s, e, i
- Quarterly updates

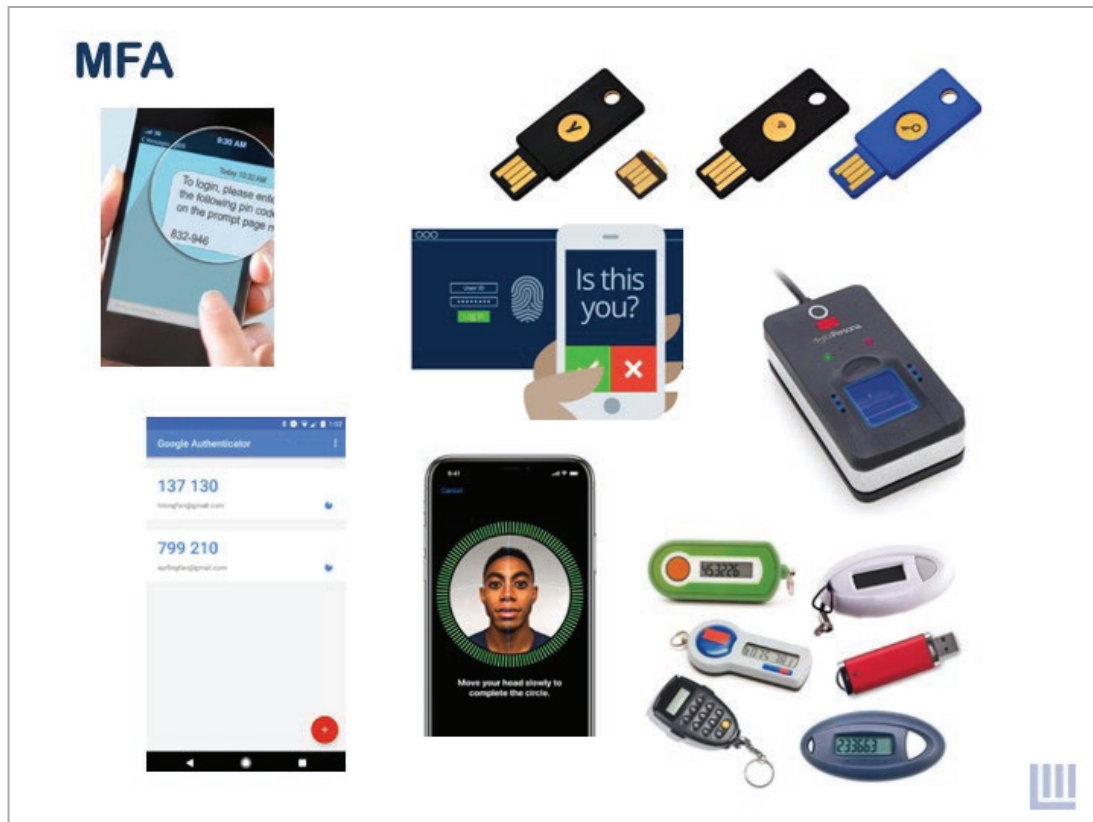
- Passphrase

- Minimum 30 characters (more is better)
 - Not found in songs/literature/etc.
 - Alphabet soup still a good idea
- Only change if compromised



And Many More!







EMPLOYEE TRAINING

- At least quarterly
 - Lunch & Learn
 - Outsourced at-your-own-pace
 - Repetition is key to reducing risk
- Friendly phishing + education
- Reward good behavior





BEST PRACTICES - WIRING

1. EVERY wire request should be verified, preferably in person
 - Original notarized instructions!
2. Do not accept changes in wiring instructions
3. Be very suspicious of wiring instructions attached to free email services
4. Faxed wiring instructions are not immune from fraud
5. Real Estate Attorneys should not be using free email accounts
6. Be very suspicious of accounts not in the name of the Seller or for non-local banks
7. Do NOT send wires overseas
8. Regularly change passwords
9. Confirm transmission of wires
10. Educate your clients
 - Signed Engagement Letter
 - Warning about wire fraud
 - Provide bank name & partial account number
 - Instruct to call you to verify prior to wiring



CERTIFIED CHECK FRAUD - RED FLAGS

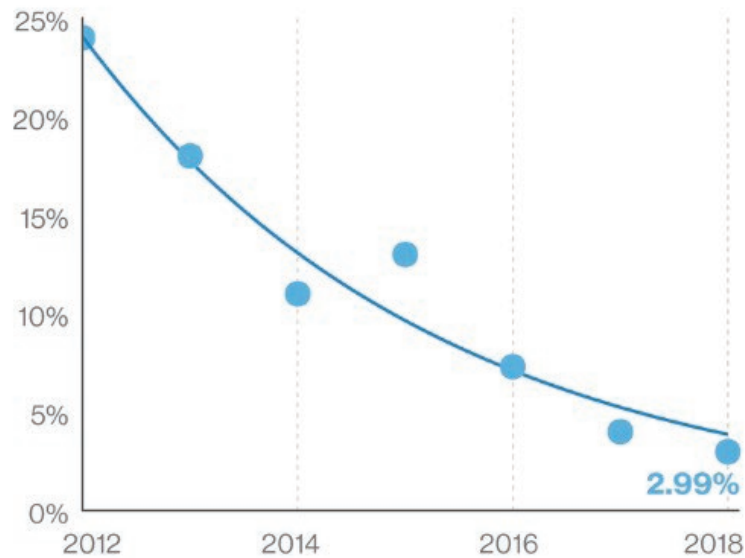
- Client is from another country / Contacts firm by email
 - "Dear Attorney" / "...in your state"
- Representation typically involves collection of money
- Email received from an individual and not a company email account
- Debt or obligation is resolved quickly or too easily
- Desperate to get money quickly
- Lawyer gets large fee out vs. work involved
- Certified check comes from P.O. Box that does not match company's address
- Requests a wire transfer as soon as the money arrives





THE HUMAN ELEMENT – REVISITED

Click rates over time in sanctioned phishing exercises



Verizon Cyber Crime Report 2019



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DEVELOPING YOUR PATH TO SUCCESSION PLANNING

BY TOM LEFENSTEY AND CAMILLE STELL



Developing Your Path to Succession Planning

Tom Lenfestey, The Law Practice Exchange

Camille Stell, Lawyers Mutual Consulting & Services

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By the Numbers

- ABA estimates 400,000 lawyers in the United States are 62 and older (out of 1.3 million active in 2018)
- 30 – 40% of actively practicing lawyers are at the age and stage where they are beginning to retire or to contemplate retirement
- 63% of law firm partners, aged 60 or older, control at least ¼ of their firm revenue
- 28% of law firms have succession plans in place

"Law Firms in Transition" by Altman Weil (2013)

Why is Succession Planning Important?

- "What if?"
- Personal retirement planning
- Legacy
- Continuation of client care
- Monetize law firm value
- Minimize disruption
- Control the terms and timeline
- Personal time and family



Risks to Ignoring Succession Planning

Loss of clients and revenue

Client replacement costs

Loss of client goodwill

Hiring and retaining good talent

Loss of partners / senior lawyers

Client concerns

Client Concerns

- Loss of institutional knowledge about the client
- Personal relationships
- Small number of lawyers in the community or who do the work your client needs
- Clients don't want to pay for the costs, hard and soft, of integrating new lawyers
- Peace of mind



Obstacles

- Retirement can be an uncomfortable topic
- Sometimes, people don't want to retire because of fear. Fear of change, fear of letting go, fear of what will I do outside of work.
- Cultural impacts of retirement
- The retiring attorney's perspective
- Lack of viable qualified successors
- Lack of awareness of benefits of transition planning
- Inertia
- Impact to firm's bottom line in terms of office space or other firm resources
- And the big one...compensation

What are your Retirement Wants & Needs?






Get Your House In Order

- Talk with your spouse or partner
 - how will you broach the topic?
 - how will you prepare in advance?
 - when and where do you want the discussion to take place?
 - what can you do to make the conversation successful?
- Talk with your law firm partner
- Determine slow-down or retirement time frames
- Tips to make your practice more marketable

Consider Your Transition and Exit Options

- Retirement Advisory Team
- Know Your Ownership Transfer Options
- Disaster and Contingency Planning
- Talk with internal candidates about Next Generation Ownership
- Consider selling your practice (inside transfer of ownership / external sale)
- Financial Wellness Tips
 - Trusted financial advisor
 - Estate planning
 - Insurance
 - Tax advice
 - Social Security Benefits



Know the Value of Your Practice

Valuing Your Practice

- Rule of Thumb Value
- Market Comparison
- Key Value Drivers
- Adjustments



Build Your Firm Culture for Transition

- Understand this is a multi-generational conversation
- Leadership should identify senior partners likely to retire or slow down their practice
- Assist lawyers in your firm to plan for retirement by addressing financial implications such as retirement funds, insurance, Medicare and Social Security
- Assist lawyers in getting their estate planning, healthcare and financial paperwork in order



Create a Succession Plan

- What attributes, experiences, skills and knowledge do you believe your successor needs to possess (trial skills are going to be in short supply – get your young lawyers in the courtroom even if clients won't pay for it)
- How will you handle introductions and handing off client relationships?
- How will you transition out of current cases?
- Inventory your management responsibilities
- Document process and procedures
- Create a firm management annual calendar (what needs to happen and when)

Client Transition Plan

Delve into key relationships within the firm and the client, and know the history of relationship – matters and revenue

Identify new relationship partner or Next Generation Owner and work with client to develop plan that includes team members, current matter update and communication plan

Require regular progress reports from relationship manager to client and firm

Deal with challenges and obstacles timely

All clients may not stay with the firm during the transition, create client plans for transitioning relationships for clients that stay on board, as well as clients that leave

Share the list of clients that need to be transitioned



Create Your Retirement Advisory Team

- Spouse, partner, adult children and others who will be impacted by your decision
- A close friend, therapist, spiritual advisor who can guide you through the anxiety of transition
- A financial advisor who can assist in managing your finances and preparing your budget
- A retirement coach to support and encourage you through the process
- A health coach, personal trainer, physician to offer health management tips and advice
- Friends or colleagues who have retired who can offer their own experience on the process and serve as a mentor
- A business valuation expert to provide valuation of your law practice
- A business lawyer to draft buy/sell documents, Letter Of Intent, Partnership Agreement
- An estate planning lawyer to assist in drafting legal documents including health care directives
- An insurance agent to consider personal and business policies that can help fund retirement, protect partners in the event of disability / retirement, and long-term health care protection to name a few
- Anyone else whose expertise, experience, or advice would be especially helpful to you

Life After Law

Fears of retirement

Strategies to overcome your fears

What does Life after Law look like?

- Who am I if not a lawyer?
- Health and wellness concerns?
- What do I do with myself?



Are You Ready to Move Forward?

- What are your priorities:
 - Provide continuity of care for clients
 - Maintain stability of law firm
- Timing is important: for the seller, for the buyer, for the law firm
- Discuss succession planning during firm meetings, retreats, orientation, year-end meetings, include in the firm handbook
- Maintain regular communication so topic doesn't grow cold
- Firm Values/Commitment to Client Service: Include transitioning as part of message of "taking care of clients"
- Communicate, plan, implement

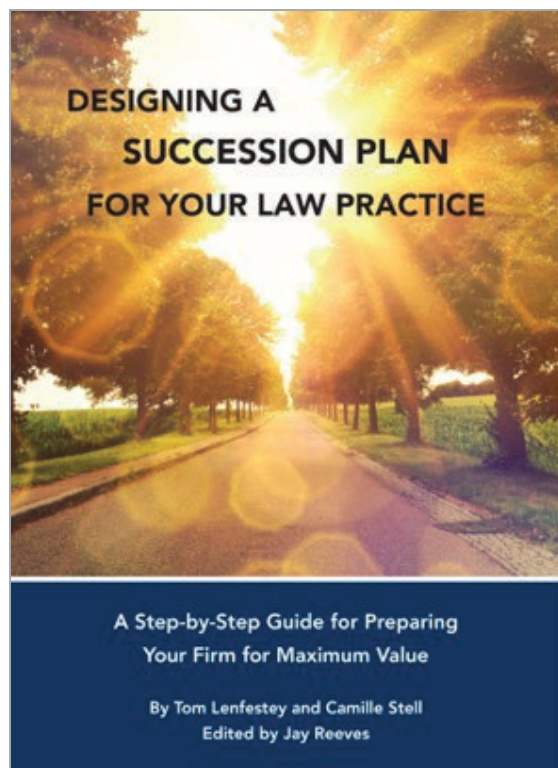
Ask the Experts

- Free checklists
- Retirement consultation call
- Develop law firm succession plan
- Law firm valuation
- Transferring Law Firm Ownership – one-on-one or small group workshop



Resources

- Lawyers Mutual Consulting & Services – <http://www.lawyersmutualconsulting.com/>
- The Law Practice Exchange - <https://thelawpracticeexchange.com/>
- Lawyers Mutual Liability Insurance Company of North Carolina – website with resources including articles, links, lending library - <http://www.lawyersmutualinc.com/>
- Osher Lifelong Learning Institute (OLLI) available through University of North Carolina university system includes education, study trips, special events
- OLLI UNC-Asheville – Creative Retirement Exploration Weekend and Paths to Creative Retirement Weekend - <https://olliasheville.com/paths-creative-retirement>
- ABA Senior Lawyers Division - http://www.americanbar.org/groups/senior_lawyers.html
- ABA Journal for online articles about retirement, succession planning and retirement - <http://www.abajournal.com/>
- Retirement by Design: A Guided Workbook for Creating a Happy and Purposeful Future by Ida Abbott
- *Younger Next Year* – books, blog posts, articles by retired lawyer Chris Crowley www.youngernextyear.com (also available in the Lawyers Mutual Lending Library)
- *Built to Sell: Creating a Business that Can Thrive Without You* by John Warrillow



Practical. Readable. Motivating. "Designing a Succession Plan" is an invaluable resource and planning guide. Solo and small firm partners will be especially interested in the sections on valuing and selling a law firm. All lawyers will appreciate the practical, expert advice outlining the options that await lawyers in this next phase.

*Joan H. Feldman, Editor/Publisher,
Attorney at Work*

Learn more and see additional resources at www.designingasuccessionplan.com or order from Amazon



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MANAGING YOUR FIRM'S FINANCIAL HEALTH DURING UNCERTAIN TIMES: A PRIMER ON FEES, BILLING AND COLLECTIONS

BY CAMILLE STELL





Evolve and thrive

If you are operating the fees, billing, and collections component of your practice as you did twenty years ago, chances are you are missing opportunities for work

Clio

- Clio is a cloud-based legal practice management solution designed for solo and small law firms; discount offered as an affiliate partner benefit of the NC Bar Association
- Clio serves 150,000 customers spanning 90 countries, approved by 65 bar associations and law societies globally
- **Clio Legal Trends Report** provides information on the most important issues faced within the legal profession. By analyzing aggregated and anonymized data from tens of thousands of legal professionals in the US, supported by extensive survey research, the report offers unique insights into law firm efficiencies, hourly rates, and other key metrics for success
- **COVID-19 Impact Report** - As part of Clio's ongoing research for the Legal Trends Report, they have undertaken new research to learn more about the impact of COVID-19 on the legal industry
- **Clio Cloud Conference** – gathering of 2,000 lawyers, legal professionals, consultants, and leaders from across legal and technology industries. The 8th annual conference will be **VIRTUAL October 13-16, 2020**
- **The Client Centered Law Firm: How to Succeed in an Experience-Driven World**, Jack Newton, Clio founder and CEO



Clio COVID-19 Impact Research Briefing May 4, 2020

Research highlights consumer concerns:

- 49% of consumers agree they would put off a legal issue
- 13% of consumers expect a coronavirus-related legal issue
- 57% **are worried** about making a living over the next few months compared to 46% of consumers **are very worried** about making a living over the next few months

Research highlights lawyer concerns:

- **Drastic deceleration in new matter creation** – 30% decrease in the first 5 weeks of 2020, 40% decrease by mid-April
- 77% of law firms agree day-to-day operations have been significantly impacted
- 67% of legal professionals surveyed are much more worried about the success of their practice
- 11% of firms surveyed have laid off staff, and 15% expect layoffs in the next 3 to 6 months
- **24% of firms are strongly considering changing or broadening their area of legal specialization in the next few months**

Clio COVID-19 Impact Research Briefing September 16, 2020

Research highlights:

- The total number of new legal matters has trended upward since the low mark in mid-April
- Recovery continues steadily across most states, NC slightly under the national average
- Practice areas showing steady growth include real estate, intellectual property, and wills and estates
- Family law case creation has stabilized
- Financial concerns remain high for lawyers as confidence in economic recovery wavers
- Although lawyers are concerned about economic future of their firms, a lesser percentage are worried about their livelihood. At the beginning of the pandemic, 57% worried about being able to make a living, while only 36% reported in September this same sentiment
- Month over month, more consumers expect to need a lawyer with 22% expecting to have a need related to the pandemic
- **However, it's alarming that an increasing number of consumers believe that lawyers are no longer providing legal services during the pandemic.** The percentage of consumers who believed this in April was 22% but the figure has risen to 35%, which may be having a significant impact on consumer decisions to put off their legal problems



Martindale-Avvo Survey May 2020

- 52% of consumers surveyed said they would still hire a lawyer during the pandemic
- 44% of consumers would be willing to hire virtually if the attorney communicated via video call, phone call or email
- 81% of law firms have seen revenues drop, while 27% report revenue decline by more than half
- 18% of firms have laid off or furloughed staff
- 60% believe it will take from four months to a year for their firms to revert back to their financial position before COVID-19
- 42% of attorneys are considering adding one or more new practice areas
- **50% plan for their staff to continue work remotely in some fashion when pandemic is over**

Impact of Small Changes

2020 Clio Legal Trends Report

- Firms who experimented with small adjustments, made over time, and practiced with consistency, saw improvements year-over-year to their practices
- Agile firms added online payments, client portal, and a Client Relationship Manager (CRM tool)
- Firms who used all three forms of technology outperformed their peers by \$40k a year



Finding Clients

Clio 2018 Legal Trends Report

1,500 consumers surveyed:

- 57% said they had had an issue that could have been handled legally but wasn't
- 22% said they'd prefer using the law to handle an issue whenever possible
- 31% said using a lawyer was too costly
- 35% said the benefits didn't justify the cost
- 28% didn't like the uncertainty of the final cost of a service



Clio 2020 Legal Trends Report

1,500 consumers surveyed:

- 59% of consumers say they prefer lawyers who can share documents via a secure website or portal
- 56% of consumers believe legal matters can be dealt with remotely – this a change from 2019 when most clients favored in-person meetings
- 78% of consumers say lawyers should adopt pricing or payment models that will make legal services more affordable
- 3.6 out of 5 consumers want payment plans
- 52% of consumers believe most legal matters could easily be handled remotely, 31% say most if not all lawyers should be running their practices remotely, 26% believe if lawyers aren't able to run their practices remotely – they are not good lawyers

Status of various practice areas

- Trial attorneys impacted with courts and administrative offices closings, many legal matters are dormant
- BigLaw making draconian cuts in staffing, paycuts, and trimming or freezing budgets – 64,000 lawyers laid off from firms in April
- Banking work continuing with workouts and bankruptcies
- Bankruptcy attorneys are expected to be in demand later, but with limits on evictions and foreclosures, bankruptcy firms are experiencing stagnation now
- Family lawyers initially reported seeing reduction in cases, result may be people separate but don't file for divorce or decreased assets result in simple divorces which generate lesser fees for lawyers, but anecdotal evidence by late summer shows uptick in work
- Business lawyers are seeing deals sidelined, delayed or completely derailed. However, advice regarding COVID-related issues, PPP loans, tech and life science are robust
- Home-Owners Association work is up
- Particularly in NC metro areas, real estate activity is still robust. Concerns about the impact of long-term Work From Home policies on commercial real estate
- Estate planning is robust, lawyers concerned about whether this will continue if the economy continues to deteriorate
- Insurance coverage lawyers are needed to define coverage exclusions
- The advice of employment lawyers has been vital in helping employers navigate increasingly complex issues of employee safety and layoffs
- Cybersecurity lawyers are in demand



How do clients find you?

Clio 2019 Legal Trends Report:

- When comparing methods of searching for a lawyer, **59% of clients sought a referral from someone they know** or have been in contact with, but **57% searched on their own** through some other means
- **16% did both** request a referral from someone they know as well as searched on their own
- Methods of searching on their own included: using an online search engine (17%), visiting a lawyer's website (17%), online reviews (8%), lawyer blogs, articles, videos (7%), social media (5%) – all online presence

What are clients looking for?

Clio 2019 Legal Trends Report:

- 77% want to know a lawyer's experience and credentials
- 72% want to know what types of cases they handle
- 70% want a clear understanding of the legal process and what to expect
- 66% want an estimate of the total cost for their case

The surprise here is your clients want transparency in process and pricing in addition to your expertise



What do clients expect?

Clio 2019 Legal Trends Report

44% of clients believe they need to shop around and talk to more than one lawyer

57% of those who have ever shopped for a lawyer say they contacted more than one law firm

42% of consumers surveyed say that if they like the first lawyer they speak with they won't need to speak with any others

82% agree that timeliness was important to them

81% want a response to each question they ask

80% say it's important to have a clear understanding of how to proceed

76% also want to get a clear sense of how much their legal issue could cost

74% want to know what the full process will look like for their case

Law firm responsiveness

Clio 2019 Legal Trends Report

- How quickly do potential clients expect firms to respond when leaving a phone message or email?
- 10% expect a response within an hour
- 24% within a few hours
- 45% within 24 hours

In other words, responding beyond 24 hours means missing the expectations of 79% of those who reach out



How do clients want to communicate?

Clio 2019 Legal Trends Report

Of those who indicated how they first reached out to a law firm:

- 68% reached out by phone
- 25% reached out by email
- 26% reached out in person

Clients have diverse preferences for communication. Be prepared to deliver a great client experience from the start by determining your client's preferences and offer a variety of methods

Do you drive clients away?

Clio 2019 Legal Trends Report

When asked why they didn't hire the lawyers they reached out to, consumers said:

- 64% said the law firm never responded
- 65% didn't get any indication on what to do next
- 62% didn't understand the process for their case
- 61% didn't get enough information they could understand
- 52% said the lawyer they spoke with wasn't likeable or friendly enough

Most lawyers want more clients, yet many law firms are failing to convert the clients that reach out to them



Setting Fees

Are Your Fees Competitive?

Google search - how much for a divorce lawyer?

- This search resulted in an ad for a family law firm. Clicking on the ad would provide insight about how other lawyers are promoting their services
- This search provided an average of fees from the lawyers.com website which appears to be from the results of a consumer survey they conducted:

*On average, **North Carolina divorce lawyers** charge between \$230 and \$280 per hour. Average total **costs** for **North Carolina divorce lawyers** are \$9,700 to \$11,700 but are typically significantly lower in cases with no contested issues. Jul 22, 2020*

- This search revealed other frequently asked questions (and answers) such as average retainer fee and average cost of a divorce



Setting Fees

In general, lawyers avoid asking other lawyers because they fear such discussions could lead to claims related to antitrust or price fixing

- Clio Legal Trends Report – fees reported by state or region of the country
- Recruiting firms often publish online Salary Guides that include regional billing rates – look at Special Counsel, Robert Half or Apple One
- Ask trusted clients and referral sources what they feel is reasonable
- “Mystery shopper” program – law firms call other firms to inquire about rates
- Ask judges what rates they typically award for lawyers in your area with your area of experience



Experiment

- Try out fees and then tweak them if they don't work
- Consider alternative service offerings such as unbundled services, packaged services, subscription services, educational programs, consulting services
- Offer service, if no one signs up this might be a sign the price is too high
- Break project down into parts so that clients have more payment flexibility by buying in phases and they determine the scope of the project



Advice from other lawyers . . .

- It is really hard to figure out what to charge and keep up with what others are charging in your area. When calculating my flat fees, I tend to use my hourly rate x the number of hours something will normally take me + build in time for one round of edits or questions.
- As someone who does litigation, I find fee affidavits in other cases or in my own cases to be a helpful way of gauging whether my rate and calculations are reasonable or not.
- Given my experience of talking with law firms, you probably aren't the highest and you may be the lowest.
- Solos and small firms do not seem to change their pricing at the pace of mid to larger firms due to client pushback concerns. Based on your expertise and length of time with no increase in fees, there is often room to increase fees.
- Often you need to increase your fees to get the kind of client you want.
- **Know how much it costs to do the work and calculate that into your fee setting process.**



Billing



Clio 2019 Legal Trends Report

Data based on responses from 150,000 solo and small firm Clio users in the U.S. and Canada, 2,507 legal professionals interviewed, 2,000 customers surveyed

- Average daily utilization rate – **2.5 hours** of billable time
- Average daily realization rate – **2.0 hours** billed to clients
- Average daily collection rate – **1.7 hours** collected from clients

Alternative billing model - Crisis billing arrangement

- The average law firm bills clients for work roughly within 30 days of performance, and gets paid on average 90 days later presenting a four-to-six-month gap in cashflow
- Speed up the process by which you get paid and simplify the process by focusing on the essentials
- Jordan Furlong suggests offering your clients a “crisis billing arrangement” – for any matters arising out of the pandemic and recession, rather than billable hours, your client will pay a monthly “pandemic flat rate” on the lower end of your billing scale, with a unique billing code that all timekeepers in your firm will use (for simplicity), with automatic electronic payments (to ensure financial stability)



Voice of the client

From their perspective, nothing annoys your client more than surprises when it comes to billing. Here are the excuses or delaying tactics:

- "The case was more complicated than we thought"
- "I've already written off some of my time and had an associate do a lot of the work to keep your bill low"
- "I'll check with the managing partner and get back you"

Voice of the client

Your client would say:

- You're the lawyer, you should know what this case is going to cost
- How many of these cases have you tried before? The data is in your billing records, use it
- Before we start a matter, give me a worst-case scenario in terms of cost so I can decide if I really want to pursue it
- If there is a wrinkle in the case that may cost me more money, pick up the phone and call me

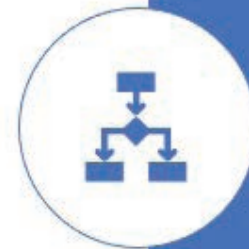


Use the Data

- Review your financial reports for the prior 18-24 months for clues, data, insights, trends – talk this over with your accountant or CPA
- What is your most profitable work? Your least profitable work?
- Are you staying in touch with clients? Referral sources? Networking from 6 feet is not only possible, it is necessary.
- Do you know where your work comes from? Use this time to be strategic about building your referral network and thanking them for their efforts.
- Look for opportunities. What work have you been doing that should be expanded? What are new practice areas to explore?

Make billing a priority

- Put processes in place to ensure you are adequately capturing your time which should be billed to clients
- Document your billing process in order to improve billing workflow
- Timely billing results in greater collections – is it necessary to bill once a month? Is it time to change the process? Rather than hold all bills to the end of the month, do you want to process bills a few times during the month?
- Does your process involve multiple layers of time keeping, review, editing, and processing?
- Streamline the process and you'll collect more money and have happier clients





Collections

Clio COVID-19 Impact Report

- 71% of legal professionals are more concerned about their clients' ability to pay legal fees than before the pandemic
- 25% of law firms are losing revenue due to unpaid bills than before the pandemic
- 75% of clients would prefer to pay their legal fees via payment plan, while only 53% of law firms are equipped to offer payment plans



Online payments as a marketing tool

- The 2019 Clio Legal Trends Report showed that 50% of consumers in need of legal services are more likely to hire a lawyer who accepts online payments.
- 40% of individuals in need of legal services said they would **not** hire a lawyer unless they accepted credit or debit cards.



Your clients want online payment options

- A recent study conducted by Total System Services (TSYS) showed that as many as 75% of customers today prefer to pay with a credit or debit card (in addition to the convenience, customers enjoy credit card rewards, cash back and other perks of using their cards)
- Studies show that 85% of electronic invoices are paid the same week they are sent, and 57% are paid the same day the client receives the invoice



You need online payment options

- Taking credit cards means you get paid faster
- The money is deposited in your account sooner than a check
- Integration between your credit card processor and your time and billing / accounting system reduces duplication of payment information
- Using a credit card processor avoids the risk of client credit card numbers jotted down on sticky notes in your office

Credit cards and Trust Accounts

- No credit card fees from the merchant should ever be taken out of the trust account
- If the client disputes the charge, the merchant should not remove the funds from the trust account without notifying your firm and verifying your permission
- RPC 247 Payment of Fees by Electronic Transfer (1997)
- 97 FEO 9 Credit Card Chargebacks Against a Trust Account (1998)
- 2009 FEO 4 Credit Card Account that Avoids Commingling (2009)



Credit Card Payment Processors

- When shopping for a credit card payment processor consider costs such as transaction fees, monthly rates, integration with your other practice management tools, and Terms of Service language
- While there are many online payment platforms available, LawPay is the Affinity Partner of the NC Bar Association. LawPay was designed specifically for attorneys. LawPay prevents commingling of earned and unearned funds, protects your trust account from third-party debiting, and ensures IOLTA compliance for credit card, debit card, and eCheck transactions. **As a result of the pandemic, LawPay is offering a \$100 credit on processing fees for new accounts.**
- Other legal specific credit card payment processors include ClientPay, Headnote, LexCharge, and MyCase Payments



- ACH fees - Automated Clearing House, a U.S. financial network used for electronic payments and money transfers - often have fees that are lower than credit card processing fees
- 2013 Formal Ethics Opinion 13 – Disbursement Against Funds Credited to Trust Account
- Catherine Reach's blog (referenced in the Resource list) provides a link to the ABA Solo, Small Firm Division listserv discussion on the ethics of charging processing or convenience fees to make up for the credit card processing fee – short answer is don't do it
- LawPay and other credit card payment processors can also process ACH, e-payments, and e-checks

ACH and E-payments





Orion Law Management 2019 Collections Survey

- What is the number one challenge your law firm has with collections?
- Policy – 57% - setting a universal payment and collections policy that will apply to all clients
- Enforcement – 29% - how do you handle approaching clients about late payments once they become overdue?
- Tone – 14% - how do you contact the client to get payment but avoid offending them in the process
- Timing – 0% - showing firms struggle more with how to convey the collections message rather than when to send the message

Best Practices

- Invest the time to establish a policy and communicate it throughout the firm
- Get attorney buy-in for the process you use and share success stories
- If you use resources other than the attorney, make sure everyone is on the same page about the collections message. In other words, don't have attorneys undermine collections efforts by saying, "it's not me trying to shake you down!"
- Stay on top of accounts receivable with monthly reports so that billing doesn't become delinquent, and if it does, it's not extremely overdue
- Following up with the client on outstanding invoices at billing time can help clients avoid falling too far behind to catch up
- Phone calls can be impactful – it gives you a chance to connect with your client and determine if there is a problem in the process – the work, the amount billed, a personal or business issue with the client
- Asking for money is hard – but forfeiting firm revenue is harder. Be respectful, courteous, and kind. Listen. Look for options to assist your client.



Cash is King

In times like these, everything is negotiable

For clients who have outstanding balances:

- Reach out by phone and email and inquire about the status of payment
- Continue to send the bill to your client – their situation may change in a few months
- Send invoices in a different way – if you mailed it, send it via email as a follow up
- Offer payment deferrals
- Consider payment plans
- Consider extending a discount for remitting a balance due
- Make it easy for clients to pay you with online or electronic payment options, including credit card



In times like these, everything is negotiable

Assess your accounts payable:

- Reach out to your creditors to inquire about options for payment
- Request payment deferrals
- Request a payment plan
- Ask for a discount for remitting a balance due

Cash is King





Modernize your law practice

The pandemic may be giving you more time than you usually have, invest it in building your business

- Use this time for strategic planning – growth plan, recruiting and retention, succession plan
- Use this time to rethink your service offerings to clients
- Cross train your staff - make sure you have the right people doing the right jobs
- Create a strategic networking plan
- Update your internal process and procedures
- Write a book, an eBook, a white paper for marketing purposes – this can be accomplished with the help of contract employee or service
- Enable electronic billing and payment options
- Move your documents and data to the cloud
- Refresh your website
- Review your data with a financial expert to calculate client and practice area profitability

Resources

- **Clio Legal Trends Report** provides information on the most important issues faced within the legal profession. By analyzing aggregated and anonymized data from tens of thousands of legal professionals in the US, supported by extensive survey research, the report offers unique insights into law firm efficiencies, hourly rates, and other key metrics for success
- **COVID-19 Impact Report** - As part of Clio's ongoing research for the Legal Trends Report, they have undertaken new research to learn more about the impact of COVID-19 on the legal industry
- **Clio Cloud Conference** – gathering of 1500+ lawyers, legal professionals, consultants, and leaders from across legal and technology industries. The 8th annual conference will be VIRTUAL October 13-16, 2020
- **The Client Centered Law Firm: How to Succeed in an Experience-Driven World**, Jack Newton, Clio founder and CEO
- **2020 ABA Profile of the Legal Profession** - 150-page report covering statistics and trends in 10 areas of the legal industry
- **Jordan Furlong Law21** blog (law21.ca) – 10-part post on surviving and thriving during a pandemic
- **Pandemic Attorney at Work** blog – one really good idea every day from law firm management, marketing, technology and other experts
- **Top Tips on Trust Account: Do's and Don'ts of Accepting Credit Cards** by Peter Bolac, NC State Bar Lawyers Trust Account Handbook
- **NC State Bar** RPC 247, 97 FEO 9 and 2009 FEO 4 – credit card ethics opinions
- **The Lowdown on NC Lawyers Taking Credit Cards** blogpost, by Catherine Reach, NCBA Center for Practice Management
- **COVID-19 Will Turbocharge Legal Industry Transformation**, Mark Cohen, March 24, 2020, Forb
- Technology consultant, Pegeen Turner, visit at www.legalcloudtechnology.com



Continue the Conversation

- Schedule a 90-minute telephone consultation
- Request Camille to speak at your firm retreat or partners meeting
- Hire Camille to be your Coach on Call
- Camille Stell, President, Lawyers Mutual Consulting & Services
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BUILDING CLIENT RELATIONSHIPS & NETWORKING FROM 6 FEET

BY CAMILLE STELL

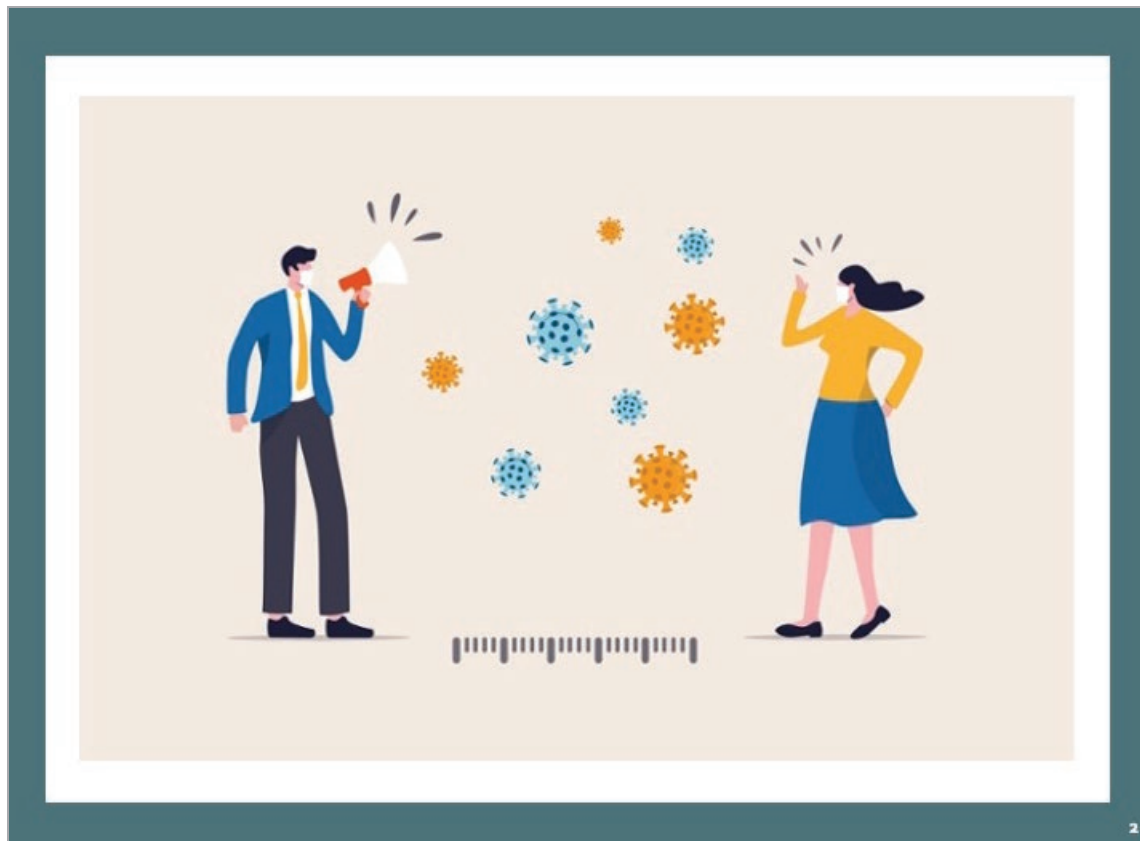
Building Client Relationships & Networking From 6 Feet

Camille Stell, President

Lawyers Mutual Consulting & Services

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The Power of Networking

While COVID-19 presents unique challenges, here are a few reminders about why networking is important:

- Networking builds relationships
- Most people you meet have at least 250 contacts
- Anyone you might want to meet is at most only 4-5 degrees of connection from you
- 70 – 80% of jobs are not posted
- LinkedIn survey reveals 85% of jobs are filled by networking
- To identify clients, potential clients, referral sources, mentors, and sponsors
- Maintaining client relationships keeps you safe from grievance and malpractice claims



The Power of Relationships

- A healthy pipeline of relationships *and* work is **crucial** for law firm economic wellbeing
- 12-15 touches *and*
- 18-24 months to turn a prospect into a client



Referral Sources

- Do you have 20 referral sources who you can count on to refer work to you throughout the year?
- Do you know the 15 people who can most impact your law practice?
- It is vital to develop relationships with people who can **refer** clients
- Identify the types of people who can refer work to you – as an example, if you are in family law, your referral sources might include marriage counselors, psychologists, social workers, members of the clergy, other lawyers, accountants
- Track your referral sources and send business their way
- Show your appreciation with a note or a small gift



Thank you gift ideas

- Handwritten card
- Subscription to *Our State* magazine
- Starbucks gift card or local coffee shop
- Amazon gift card or shop local
- Book – your favorite or a popular business book
- Cookies, candy or food delivery such as Sugarfina, Shari's Berries, Edible Arrangements, Southern Season, Ford's Produce Company, Cheryl's Cookies
- Charitable donation
- Donate / sponsor event they support

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Intangible Gift Ideas

- Refer clients
- Make introductions
- Check in with them regularly to share ideas
- Share their social media posts
- Offer congratulations on their accomplishments
- Share articles relevant to their work or interest

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Reframe Networking

Instead of this:

- Small talk at cocktail parties
- 500-person chamber of commerce events
- Stacks of business cards
- Elevator pitches

Think of this:

- Getting to know people
- Making introductions
- Having genuine conversations
- Building relationships
- Providing value to people in your network

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Networking Goals

- Expand network of clients and referral sources
- Build stronger and deeper client relationships
- Find a mentor or sponsor
- Build relationships with others in the legal profession and outside of legal
- Have conversations with lawyers who began their practices during or immediately after the Great Recession for survival tips
- Contemplate career changes
- Have conversations with other lawyers about how they are adapting to WFH or modernizing their law offices
- Network to expand your law firm, from law students to lateral hires

Use technology to build community and reframe networking by leading with what you can offer.

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Client Contacts

Successful rainmakers typically engage in these 4 activities:

- They go out and see clients
- They are active in a trade organization or business group that includes potential clients
- They develop an extensive and expanding referral network
- They keep a high profile – speaking, writing, serving on boards

Use this time to call current and past clients to check in on how they are coping

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Strategic expansion of network

- Create clarity around where you want to work and the type of work you are interested in
- Create a document or spreadsheet that lists your interests: firms, non-profits, organizations, associations, government, corporations, along with potential areas of practice
- Include a column for contacts you have in these organizations or people you want to meet
- Track your contacts and the timing of your networking efforts with each organization, along with appropriate time frames for follow-up
- In order to hone your skills or confirm interest in practice areas, search applicable CLEs or trainings

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Serve others

Start by asking, how can I be of service?

- Retweeting the link to a helpful resource
- Share on social what legal associations or law firms are doing that provide aid
- Serve through social - Facebook Live shows (King Law Office, Rutherfordton, NC)
- Look for Pro Bono opportunities through bar associations or the NC Pro Bono Resource Center
- Drop food at a local food bank, volunteer to assist in feeding kids
- Give blood to the American Red Cross
- Watch and see what the needs are of others and if you can fill a gap

Email to your contacts:

I wanted to reach out to see if there's anything I can do for you. You've been so generous with your time; I want to return the favor if I can.

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Sending positive vibes

- Reach out to let someone know you are thinking of them
- Send an email or hand-written note of thanks
- When you see someone doing good, offer congrats or thanks
- Be authentic in your communications

The more you give, the more you get

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Share your skills

- Share your skills with your network
- Teach someone how to use tech tools for staying connected
- From a prior career or a hobby, you may have industry-specific advice like personal finance or wellness tips to share
- Be proactive about learning the skills of remote work. Some applications have free accounts, so it won't cost you anything to learn. Set up a Zoom account and host a social distancing coffee hour with a friend. Use the cloud-based version or mobile app version of tools of your trade. Read articles about the tech tools needed for WFH.
- Ask clients to share expertise with your team
- If it makes you more comfortable, you can set limits on your time – let's schedule a 15-minute call to offer guidance on this issue (not your legal skills, but maybe coaching someone through negotiation skills)

Email to contacts:

Given that I've participated in virtual teams in my past employment, I might have some ideas to share on how to keep your employees feeling connected when they're not in the office.

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Use Tech to connect

- Use technology such as Zoom or FaceTime to connect. Schedule dates and plan morning coffee, and stay-in-touch calls.
- Now is the time to strategically take inventory of who you want to be connected to and reach out
- Look for online communities such as Facebook Groups or through a platform such as Mighty Networks that match your interests. If you can't find a group that speaks to you, create your own.
- Follow colleagues and associations on LinkedIn and other social platforms - connect, follow, comment.

Use technology to stay connected and grow your network

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Use Tech for wellness

- Use this time to start an affirmation, meditation, or other wellness practice through tools such as Headspace, Insight Timer, Breath, Calm
- Search for lawyers in the wellness space and follow them: Laura Mahr, Colleen Byers
- Use your Fitbit or other tech tool to remind you to get up and walk around, set walking goals daily, create contests among your office mates, friends, and family to hit target number of steps
- Reach out to your law school, BarCares or the State Bar LAP program if you need to talk with someone

Use technology to keep your mental health in check

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Update your online presence

- This is a great time to update your online presence. What do your social media platforms say about you? Do your professional strengths and interests stand out?
- Look for key influencers in your field or other professional fields to see how they have branded themselves. Which profiles inspire you? How can those insights be incorporated into your profile?
- Anna Cates Williams is a lawyer in a non-traditional role, she works as the Director of Administration for a Durham law firm – I love her LinkedIn page
- Jay Reeves is another lawyer in a non-traditional role, a writer, consultant and coach – I love his LinkedIn page and activity
- Become an online expert in your area of specialty – connect, share, comment, publish articles showcasing your knowledge in an area of substantive law

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Communicate with Millennials in Mind

- Consider using online news, podcasts, content marketing, shareable content, and social.
- From your website offer: free downloads, e-books, and blogs
- Tell stories with pictures, infographics, and videos
- Create content to share across social
- Nextgen consumers and employees are interested in seeing businesses give back, not just make a profit. Certified B Corporations balance purpose and profit such as The Forrest Firm.
- Consider online reviews. According to marketing company BrightLocal, consumers trust online reviews as much as personal recommendations. Consider reviews on Google, Facebook and Yelp.
- Make sure your website is accessible by mobile

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Expand Your Network

- Law school classmates, undergrad classmates
- Alumni networks for college, law school, prior employment
- University or law school Career Services Department
- Current and past business colleagues (accountant, banker, financial advisor, realtor, consultant, vendor)
- Members of associations / clubs you have joined
- Organizations where you volunteer
- Neighbors, friends, family, play-date parents
- Homeowners association
- Worship community
- Local community
- Fellow members of professional, charitable, special-interest, nonprofit organizations, sports teams, hobbies, swim group, running club



Networking mistakes

- Random emails that do not acknowledge mutual interests and connections
- Long emails that do not get to the point quickly enough
- Generic emails or messages with no point or “call to action”

I’m a fellow alum of ABC Law School. Would you be willing to chat for a minutes about how to get a spot on your defense panel?

I’ve completed a review of the new insurance regulation. I’d love to write an article for your company’s risk management newsletter highlighting the changes in the law.

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Tips

- Keep it brief and use a compelling subject line to maximize the likelihood that the person will read the message
- Show flexibility by giving them options – a brief phone call, questions by email, coffee or lunch
- Designate five to 30 minutes on social media. Read, like and comment on the articles your connections post. When you see particularly relevant posts, email the person directly, telling them why those the post impacted you or asking them to clarify points.
- Host Virtual Happy Hour or Virtual Coffee with clients, potential clients, and referral sources
- Move your client CLE to a virtual event

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Networking Challenges

- Call to request a meeting or schedule a phone call, leave a voice mail if necessary, follow up with an email
- How many times should you reach out if your target does not respond?
- Coffee or lunch? Starbucks or nice restaurant? Who pays?
- Rushing the “ask” – take time to connect
- Getting to the “ask” – lawyers often get stuck in a cycle of having coffee without ever moving the potential client or the potential referral
- How can I reciprocate?

My News

		Example	My news
My News	Personal news	Professional development Subject matter expertise Upcoming event Personal updates	
	Recent accomplishments	Project completed Successful initiative	
	Current work projects	Current initiatives How you are spending time	
	At the firm	New products or services Upcoming events	
	Looking forward	What is on the horizon What excites you about the future	



Follow-up

- 12 touches to turn a prospect into a client
- Connect on LinkedIn or other social media
- Send thank you note or email
- Follow up email to new contacts
- Take any next steps that you promised such as an introduction
- Provide value to your new network connections
- Schedule next opportunity to further relationship with your new contacts

Resources

- Lawyers Mutual Consulting & Services – contact Camille Stell for business development coaching
- Lawyers Mutual Lending Library
- The Rosen Institute – marketing and practice management blog written by Raleigh attorney Lee Rosen
- Never Eat Alone and Other Secrets to Success, One Relationship at a Time by Keith Ferrazzi
- How to Win Friends and Influence People by Dale Carnegie
- Make Your Contacts Count: Networking Know-how for Business and Career Success by Anne Baber
- Women Rainmakers Best Marketing Tips by Theda Snyder (ABA publication)
- Marketing Success: How Did She Do That? Women Lawyers Show You How to Move Beyond Tips to Implementation, Edited by Afi S. Johnson-Parris and Dee A. Schiavelli (ABA Law Practice Division publication)
- Personal Branding in One Hour for Lawyers by Katy Goshtasbi
- The Referral Engine: Teaching Your Business to Market Itself by John Jantsch
- Strengthsfinders 2.0 by Tom Rath
- TED Talks
- Podcasts such as The Gen Why Lawyer, The Resilient Lawyer, Leaders Love Company, Your Law Firm with Lee Rosen, Harvard Business Review, Fastcompany, Think Entrepreneurship, Business Wars, How I Built This



Continue the Conversation

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Bring Camille in for keynote speaker for firm
retreat or partners meeting

Develop Strategic Plans, Succession Plans,
Retirement or Wind-down Practice



EMERGING ETHICS

BY WARREN SAVAGE AND CAMILLE STELL



Emerging Ethics

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& Services

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NC State Bar

- Government agency responsible for regulation of attorneys in NC
- Admission to practice is the responsibility of the NC Board of Law Examiners, a separate state agency
- Membership is mandatory and the organization regulates 30,000+ licensed attorneys (25k in NC, 5k licensed in NC but reside out-of-state)
- In 2013, the State Bar moved into a newly constructed building which offers offices and conference rooms available for members and bar-related organizations
- Governance is by a 60+ member council whose members are elected by their local bar jurisdictions
- The public's interests are represented by 3 members of the council who are not lawyers and are appointed by the governor
- Council elects 4 officers to leadership
- Staff of 85 lawyers, paralegals, investigators and other employees carry out the daily operations
- Council members serve on various standing committees (including Ethics) and meet quarterly

Updates from NC State Bar

- Physical office is closed for the foreseeable future because of the pandemic (usually, conference rooms and attorney work rooms available)
- April quarterly meetings were remote and only "necessary" committee meetings were held, July meetings were remote, but all committee meetings were held over a 3-week period, same for October
- Bar exam went forward in July – 668 applicants completed the exam, 83% pass rate
- Remote swearing in of new attorneys allowed by legislative action
- New in 2020, all 12 required hours of CLE can be taken online
- Mental Health Resources available through Lawyer Assistance Program (LAP) – visit the Resource Guide and Mental & Emotional Well-Being Toolkit – links under the News tab at ncbar.gov
- Look for Wellness column in the quarterly *State Bar Journal* written by Laura Mahr of Conscious Legal Minds



Grievance Committee

- Grievance Committee is made up of Bar Councilors who consider whether there is probable cause that an attorney violated an ethics rule, and if so, does it merit discipline not involving a suspension or disbarment, *i.e.*, censure, reprimand, or admonition.
- If there is no probable cause, the Grievance Committee can either dismiss the grievance or issue a Letter of Warning.
- If there is probable cause that the attorney violated an ethics rule that requires a suspension (stayed or active) or a disbarment, then the Committee would refer it to Disciplinary Hearing Commission (DHC) and instruct NCSB Staff Counsel to file a public complaint.

Disciplinary Hearing Commission

- DHC is a separate commission that holds hearings on complaints referred from the Grievance Committee.
- 2/3's of the members are attorneys appointed by the State Bar Council. The other 1/3 are non-attorney public members who are political appointees.
- Each DHC hearing panel is made up of two attorney members and one public member. DHC hearings are like trials, and their judgments can be appealed to the Court of Appeals.
- The DHC trials are for anything where the State Bar is seeking to impose discipline of suspension or higher or for cases where the attorney refused to accept the offer of a lesser discipline from the Grievance Committee.



Recent NC State Bar Quarterly Report

- Random Audit Report – over 2/3 of audited trust accounts have errors
- Ethics counsel field over 1000 ethics inquiries by email and phone call every quarter. Conflicts questions are the majority of the inquiries.
- Grievance Committee considered approximately 180 cases resulting in:
 - 117 files dismissed
 - 5 letters of caution
 - 11 letters of warning
 - 9 admonitions
 - 3 reprimands and
 - 1 censures
 - 5 referred to Trust Account Compliance Program
 - 7 referred to Disciplinary Hearing Commission for trial

NC State Bar Regulatory Study Committee

- NC is one of about 14 states that are studying regulatory issues or are engaged in regulatory reform: WA, OR, CA, UT, CO, AZ, NM, MN, IL, IN, NC, FL, DC, and CT
- Issues being studied:
 - Rule 5.4 – who can own and invest in law firms
 - Rule 5.5 – who can do the work
 - Rules 7.2-7.3 – constraint of marketing efforts
- “Regulatory sandbox” approved in Utah (applicants will be able to seek approval to experiment with new legal business models and approaches. Providers will be tracked for two years and then a decision about whether the program should continue) AZ and CA approving their own programs.
- Increased pressure resulting from Access to Justice concerns, technology, pandemic
- View the ABA Legal Innovation Regulatory Survey
- Visit www.legalinnovationregulatorysurvey.info and sign up for updates - emails are only sent when action has been taken



Proactive Management Based Regulation (PMBR) – Public Protection Before Reactive Discipline

- The State Bar should design measures to complement traditional, reactive disciplinary processes, usually through the use of 'self-assessment tools.'
- The State Bar should educate lawyer/firm management to develop and employ an ethical 'infrastructure' of policies, programs, and systems to prevent misconduct and unsatisfactory service.
- **Illinois PMBR Program** – Required for all solo practitioners that do not carry legal malpractice insurance. 41% of private practice, solos in Illinois are uninsured.
- Required 4 hours of CLE provided free by the Illinois State Bar through interactive online self-assessment tools.
- Self-assessment requires lawyers to demonstrate that they have reviewed the operations of their firm based upon lawyer ethics rules and best business practices.
- Self-assessments are confidential and not discoverable.
- NC State Bar Study Committee formed to study Illinois experience.

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Ethics Committee

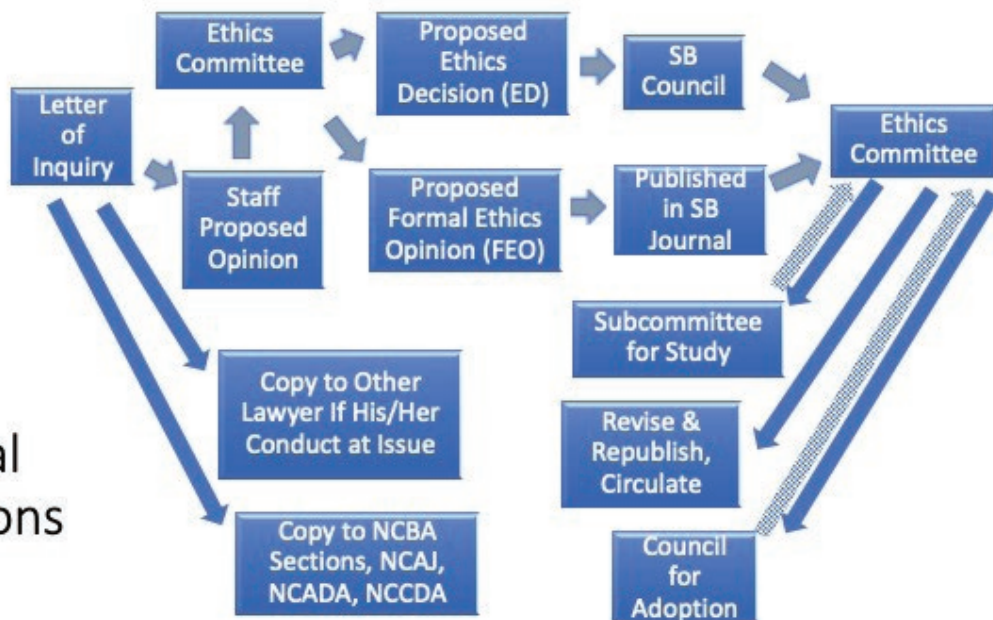
- Lawyers across NC can call, write or email Ethics Counsel at the State Bar for guidance, sometimes those inquiries make their way to the Ethics Committee
- 20 members serve on the Ethics Committee along with 12 advisory members who are appointed by NCSB President
- Ethics Committee considers ethics issues that are proposed by State Bar staff from the inquiries of NC lawyers



Informal Ethics Advice & Ethics Advisories



Formal Opinions





Technology: New in 2019

- NC Rules of Professional Conduct Rule 1.1, Comment [8]
- “[A] lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with the technology relevant to the lawyer’s practice.”
- Confidentiality of texting with client
- One of twelve CLE hours every year must be devoted to technology training.

Overhaul of Advertising Rules Submitted to Supreme Court

- Special Committee to Study the Advertising Rules 7.1 through 7.5.
- In response to ABA House of Delegates official Resolution to amend the Model Rules on Advertising.
- National study of states’ advertising rules found:
 - Insignificant, technical requirements overshadow guiding principle of advertising rules that lawyers must avoid false or misleading communications.
 - Also noted that most complaints to regulatory agencies about lawyer advertising are filed by other lawyers, not members of the public.



Proposed 2020 Formal Ethics Opinion 6

Commenting Publicly on Client Information Contained in Public Records (the “War Stories” opinion)

October 22, 2020

Proposed opinion rules that a lawyer is prohibited from commenting publicly about information acquired during representation unless the client consents or the disclosure is permitted by Rule 1.6(b).

2014 Formal Ethics Opinion 5

Advising a Civil Litigation Client About Social Media

Competent representation includes advising your client about the legal ramifications of the client’s postings on social media if those postings could be relevant to the matter.





Proposed 2020 Formal Ethics Opinion 5

A Lawyer's Responsibility in Avoiding Fraudulent Attempts to Obtain Entrusted Client Funds
October 22, 2020

Proposed opinion discusses a lawyer's professional responsibility to inform clients about relevant, potential fraudulent attempts to improperly acquire client funds during a real property transaction.

2018 Formal Ethics Opinion 1 Participation in Website Directories and Rating Systems that include Reviews

- *Opinion explains when a lawyer may participate in an online rating system (such as Avvo), and a lawyer's professional responsibility for the content posted on a profile on a website directory.*
- After "claiming his profile," lawyer may ask clients to post reviews as long as there is no "quid pro quo."
- Client reviews on lawyer's profile that may contain "hyperbolic accolades" like "the best," "awesome," or "the smartest" are typically okay because they are generally understood as the opinion of a third party.
- If a client review has a material misstatement of fact, the lawyer must take action to remove or correct the review.



2018 FEO 5

Accessing Social Network Presence of Represented or Unrepresented Party

Nothing in the Rules prohibits a lawyer from accessing publicly available information.

Lawyers must never use deception, dishonesty, or pretext to gain access to a person's restricted social network presence.

A lawyer, using his true identity, **may** request access to the restricted portions of an **unrepresented** person's social network presence.

A lawyer **may not** request access to the restricted portions of a **represented** person's social network presence w/out permission.

Lawyer **may not** direct 3rd-party to request access if lawyer not permitted to do so.

Lawyer **may** accept info from 3rd-party who has access to restricted portions of represented person's social network presence.

Adopted in October, this is a rare instance where the full Bar Council overrode a recommendation of the Ethics Committee

Criminal defense, domestic law, and personal injury plaintiff and defense lawyers all have different perspectives.

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Proposed 2020 FEO 1: Responding to Negative Online Reviews

Proposed opinion rules that a lawyer may post a proportional and restrained response to a negative online review, but may not disclose confidential client information



Study Committees

2019 FEO 5 – Bitcoin for Lawyers

- Lawyer may accept a flat fee, earned upon receipt, in virtual currency if it is not clearly excessive and the lawyer meets all the requirements of Rule 1.8(a).
 - Akin to a business transaction with a client.
- Lawyer may NOT accept virtual currency from client as advance payment of fees or hold it as entrusted funds.
 - “As of the date of this opinion, and with the primary interest of the State Bar being the protection of the public, the methods in which virtual currency are held and exchanged are not yet suitable places of safekeeping.”
- If reliability and security of the use of virtual currency improve in the future, the opinion may be revisited.
- Beware – virtual currency is yours for the losing

Study Committee on Use of Artificial Intelligence in the Provision of Legal Services

- The Ethics Committee has established a study committee to consider the question of what ethical parameters and / or considerations apply to a lawyer’s use of artificial intelligence and machine learning in the lawyer’s practice

Disclosing Potential Malpractice

2015 FEO 4 Disclosing Potential Malpractice to Client – Opinion analyzes a lawyer’s professional responsibilities when she discovers that she made an error that may adversely impact client’s case.

- Material Error vs. Harmless Error – a spectrum.
- If it is a material error, lawyer is not required to withdraw unless error creates an unwaivable conflict.
- Lawyer must inform client of the facts surrounding the mistake and its effects on representation, and that client has right to seek new counsel.
- Lawyer should not advise client about whether client has a malpractice claim against her.
- Lawyer not required to disclose malpractice carrier or limits.
- Lawyer should call her malpractice carrier.



Continue the Conversation



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A RESILIENT MINDSET: TAKE STOCK OF WHAT YOU LOST AND WHAT YOU GAINED TO MOVE FORWARD

BY LAURA MAHR

Published in NC State Bar Journal Summer 2020, Volume 25, Number 2

I don't know of a single person in our profession who has not dealt with a personal or professional setback. While most of us have honed a few coping skills for trying times, many of us are finding our skills are falling short during the pandemic and its aftermath—the unknowns are too vast and the tragedy too great. As we move forward, a resilient mindset may be the thing that allows us to stay afloat mentally, emotionally, and financially in these rocky waters. Ultimately, a resilient mindset may mean the difference between holding steady with an anchor and being tossed around in the waves.

Resilience is our ability to bounce back from a setback and adapt when things don't go as planned. It arises through a process of understanding our emotional response to the setback and by making meaning of what we learn while recovering. Our mindset is a compilation of our beliefs, attitudes, and mental states that orient us to what is going on and what we should do (or not do) about a given situation. A resilient mindset allows us to adapt our beliefs, attitudes, and mental states such that we can bounce back from setbacks and unanticipated changes. A resilient mindset is one that both allows space for “what is real” in the moment—including difficult emotions such as fear, sadness, and loneliness—and space for something new and improved to emerge.

No one yet knows what the full impact of the coronavirus and its aftermath will be; however, our mindset will determine how we remember and talk about what happened, and will determine what we make of our lives now. If we strive to have a resilient mindset, we will be able to adapt and bounce back from all we have lost and make the most of what we have gained in the past few months.

During the peak of the pandemic, I received an email from a client, Jessica Yañez, a North Carolina attorney and owner of Yañez Immigration Law in Greensboro. Her email so clearly illustrates the power of employing a resilient mindset during challenging times, that I asked her for permission to excerpt from it here.

“Hi Laura,” her email began, “I wanted to share some of my personal thoughts about the current coronavirus situation. We are definitely in unprecedented times, and lots of people are suffering. There was one day that I worried myself sick and ended up having a good, long cry because I just felt so bad for all of the people suffering and my fear of the unknown.”

As I read the opening lines of Jessica's email, I could feel her distress and concern due to the trauma and uncertainty of the times. And yet, when I read her next sentence, I started to smile: “Once I got past that day,



things have been so much better.” As I continued to read her email, it was apparent that Jessica had adopted a “resilient mindset” to help her and her family cope with pandemic-related setbacks. Her email went on to exemplify ways she and her family were adapting both their attitudes and their lives in resilient ways.

“I am embracing the unknown and enjoying so many new things,” she wrote. “I always said I wanted to work less and spend more time with my kids. Now I am staying home two days a week with them and spending so much quality time with them. I am embracing technology and all of the things it has to offer. I did a paint class online Friday evening; I started having the kids do photography scavenger hunts. Our son turned 12 at the end of March and finally learned to ride the bike we got him when he was six years old! He learned to mow the lawn too. My daughter is doing an online art class and we do free online lessons through scholastic and cosmic kids yoga together. I also signed them up for a book club called Literati and a cooking club called Kidstir. We made a home gym in the garage and work out together. It’s like we are finally able to do all the things I’ve always wanted to do, but was too tired or too stressed to do.”

Embracing the unknown is a useful approach to cultivating a resilient mindset, and oftentimes creativity emerges as a result, just as Jessica and her family discovered. A resilient mindset can also open us up to deepening our relationships with ourselves and those we love. Jessica’s email continued: “I gardened for the first time and even got a bike myself! I’ve connected more with my husband and we have taken time to talk about things that really matter to us.”

Cultivation of a resilient mindset can be done at both work and home: When we foster a resilient mindset toward our homelife, it crosses over into our work, and vice versa. The adage, “the way you do anything is the way you do everything” applies to our mindset, and we can reap the benefits of resilience in both places, as Jessica’s email illustrates.

“As for the firm, we are still steady, and we now have time to do everything we wanted to, but didn’t have the time. At the end of this month we are going to do a complete file review for every case in the office. We will reach out to everyone with a pending case to say hello and check in. We will use the time after that to get ahead on every case.”

Most importantly, a resilient mindset makes meaning out of what we lost and connects it with what we gained. The closing lines of Jessica’s email illustrate that she was doing that.

“I know everyone processes this differently, but this has been a blessing in disguise for me. Some people may feel overwhelmed and not want to be given a laundry list of things to do, but I feel like now the world has given us the much needed gift of slowing things down and letting us take time to rest and do things we always wanted to.”

I was touched to read Jessica’s email and felt proud of her for investing her time in cultivating a resilient mindset long prior to the pandemic. It was clear she had “done her homework,” and her resilience kicked into gear when she needed it. If you would like to begin cultivating a resilient mindset right now, try this.*

Step One: Account for What You Lost—As you process your experience with COVID-19, take a moment to acknowledge how it set you back and what you lost. Perhaps professionally you lost something that gave you security—like your job or your firm, or the benefits you receive from full-time work, or your confidence in being able to run a business. Maybe you lost something that gave you satisfaction or joy—like having a routine, writing a brief, going to court, or winning a case. Perhaps the biggest thing you lost was your face-to-face connection to



your colleagues, your clients, or the people you saw in court. You may even have experienced a loss of identity as a professional as your work calendar cleared and clients stopped calling.

There may also be numerous personal losses to account for as well. You may have lost someone you know to COVID-19, or suffered another loss, like being able to attend your child's graduation, a family celebration, or your own retirement party. Or perhaps you missed out on a vacation or travel for spring break. It's ok to account for smaller daily losses too, like the loss of freedom to travel, leave your home, grocery shop with ease, get a haircut, etc.

Note that you also may be experiencing "anticipatory grief"—fear of the loss of things to come. If that is the case, account also for what you're afraid you may lose in the future.

Make a list now of your losses/setbacks.

Step Two: Make it Manageable—Choose one of the losses from your list and focus on that as you go through the next steps in this process. You can do steps two through five for each item on your list if you'd like. Part of having a resilient mindset is giving yourself the opportunity to digest and process your setbacks in small chunks so you don't feel overwhelmed.

Step Three: Acknowledge Your Feelings—Acknowledge the feelings that came up when you experienced the loss, and may still be coming up now as you account for what you lost (or what you fear losing in the future). For example, "I feel doubt, fear, sadness, confusion, disillusionment, and/or shock because when I got furloughed I lost my confidence, security, peace, sense of accomplishment and control, and I felt alone." As challenging as it can be to feel the uncomfortable feelings that accompany your loss, doing so is a key step to being able to process your emotions and move through the grief that arises from the loss.

Step Four: Give Yourself Support—This is one of the most important steps, even though it can be the most difficult for us as lawyers and judges to seek and receive support. (See last quarter's column on seeking help at bit.ly/34LI6YE.) Giving yourself support can be as simple as saying something kind and understanding to yourself like, "Ouch. That hurt. Of course I feel all of those feelings because that was a big loss and it set me back." Taking a deep breath, sighing, or going outside may also help. You may want to find additional support by talking to a friend, colleague, or loved one about what you've lost and the feelings that come up when you think about it. If you feel inconsolable after trying a few different avenues for self-support, reach out to a mental health care provider and/or the North Carolina Lawyer Assistance Program (nclap.org) or the North Carolina Bar Association BarCARES Program (ncbar.org/members/barcares) for professional support.

Step Five: Reflect on What You Gained and Make Meaningful Connections Between What You Lost and What You Gained—This is the pinnacle step in creating a resilient mindset. To bounce back from a setback better than you were before it occurred, make a connection between what you lost and a skill, belief, attitude, or mental state you gained as a result of what you lost. For example, "I lost the ease of going to work and seeing clients in person, but I figured out how to work from home and use video conferencing to connect with clients in a new way." Or, "I lost the financial security I got from my job, but I found out I can budget and cut back when I need to." Or, "Because I live alone, I lost my normal sense of connection with my friends, but I feel like I know myself better now, and I made new connections with my neighbors and learned to cook." Or, "I lost someone I love during COVID, but gained a greater understanding of how to cope with loss by reaching out to a therapist virtually for support." If you can, see if you can feel gratitude or appreciation for what you've gained. Don't push



it though: If feelings of gratitude and appreciation don't naturally arise, it's ok. You may be too close to the loss and setback right now to feel much appreciation. In that case, just stick with what you gained and its meaning for you.

As you rebuild over the next few months and find yourself looking for an anchor, check in with your mindset. Try on a resilient mindset for an hour, or a day, or a week and see if employing it calms the waters and improves your perspective, well-being, and productivity. If you like how it feels, keep at it. The more you practice, the easier cultivating a resilient mindset becomes and the sooner it turns into a habit that improves your whole outlook on life's setbacks.

Thank you to Jessica Yañez and her family for their willingness to share their experiences with the Pathways to Well-Being readership.

Laura Mahr is a NC lawyer and the founder of Conscious Legal Minds LLC, providing mindfulness based wellness coaching, training, and consulting for attorneys and law offices nationwide. Her work is informed by 13 years of practice as a civil sexual assault attorney, 25 years as a student and teacher of mindfulness and yoga, a love of neurobiology and neuropsychology, and a passion for resilience. Find out more about Laura's work at consciouslegalminds.com. If you would like to bring Laura to your firm or event to conduct a cutting-edge resilience-building training, contact her at info@consciouslegalminds.com.

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